

REMARKS

In the Office Action dated September 4, 2008, the following rejections are present: claim 11 stands rejected under 35 U.S.C. § 112(1); claim 18 stands rejected under 35 U.S.C. § 103(a) over the McKissick reference (US Patent Pub. No. 2007/0124795) in view of the Danker reference (US Patent Pub. No. 2003/0208777); claims 1-17 and 19-28 stand rejected under 35 U.S.C. § 103(a) over McKissick and Danker in view of the Oshita reference (US Patent No. 5,796,441); and claims 29-31 stand rejected under 35 U.S.C. § 103(a) over McKissick in view of Oshita. Applicant traverses all of the rejections and, unless explicitly stated by the Applicant, does not acquiesce to any objection, rejection or averment made in the Office Action.

Regarding the § 112(1) rejection of claim 11, it is Applicant's understanding that this rejection has been withdrawn in view of the previous Response dated October 30, 2008 and it is Applicant's understanding that the amendment to claim 11 presented in the previous Response was entered, per a telephone conversation with the Examiner on December 1, 2008.

Applicant respectfully traverses the § 103(a) rejections of claims 1-31 (each of which is based on McKissick and Danker) because the modification of the McKissick reference proposed by the Office Action would change the principle of operation of McKissick. *See, e.g.,* M.P.E.P. § 2143.01 ("If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)."). In this instance, the Office Action mischaracterizes the McKissick reference as teaching broadcasting messages (received from users of set top boxes) to the set top boxes of the desired recipients of these messages. *See, e.g.,* page 12 of the instant Office Action. Instead, the cited portions of McKissick teach that messages can be exchanged between the users of television equipment devices 100 and 120, the messages are stored on message servers 106, 108 or 110 and the recipients user's set top box downloads the message from the message server after logging on to the message server. *See, e.g.,* Figure 3 and Paragraphs 0077 and 0079. In other words, McKissick does not broadcast text messages to

a plurality of destination set top boxes as in the claimed invention, but instead teaches that the set top boxes access messages stored on a server on an individual basis.

Now turning to the impropriety of the Office Action's proposed modification of the McKissick reference, the Office Action proposes to modify McKissick such that the messages exchanged between users of set top boxes would be multiplexed with audio and video signals and broadcast over a network. *See, e.g.*, page 12 of the instant Office Action. However, Applicant submits that such a modification would change the principle of operation of McKissick in that the messages would no longer be stored on a server to be accessed by the intended recipients on an individual basis. In other words, the Office Action is improperly modifying McKissick by replacing that which the invention is directed to (*i.e.*, the manner in which messages are exchanged between users of set top boxes). Accordingly, there is no motivation for the skilled artisan to modify the McKissick reference in the manner proposed by the Office Action.

In view of the above, the § 103(a) rejections of claims 1-31 are improper and Applicant requests that they be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Aaron Waxler, of NXP Corporation at (408) 474-9068.

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